

REMARKS

Claims 11-17, 19 and 20 are pending in the application. By this amendment, claims 12 and 17 are cancelled and claims 11 and 13-16 are amended. Thus, claims 11, 13-16 and 19-20 remain pending in the application.

Objections to the Claims

The Examiner has objected to claim 16 for informal reasons based on a typographical error. Applicant has amended claim 16 as set forth above to correct the error. Accordingly, the Examiner's objection to claim 16 should be withdrawn.

Claim Rejections Under 35 U.S.C. § 102

Claims 11 and 12 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,424,035 to Hönes et al. (hereinafter "Hönes").

Claim 12 is cancelled herein.

As set forth above, claim 11 has been amended to further distinguish the claimed invention over the Hönes reference. Amended claim 11 recites a test field system, including, *inter alia*, a measuring device having a test strip receiver including a support surface for a test strip, the support surface in a middle area between the holding means defining a projection extending outwardly from the support surface adjacent a measuring opening therein, the projection defining a surface vertically displaced from the edge areas such that the test field of a test strip inserted in the test strip receiver is supported by the surface of the projection and spaced apart from the support surface and the measuring opening therein.

The Hönes reference does not disclose a support surface for a test strip including a middle area between holding means defining a projection extending outwardly therefrom adjacent a measuring opening in the support surface for supporting a test strip such that a test field of the test strip is spaced apart from the support surface and the measuring opening therein. As set forth by the Examiner, Hönes includes a test strip analysis system including a support surface for a test

strip having a hole in the support surface forming a measurement opening. Hönes does not disclose a projection extending outwardly from the support surface as recited in amended claim 11.

To support an anticipation rejection under 35 U.S.C. § 102, a single prior art reference must disclose each and every element or limitation in the claim. As set forth above, Hönes does not teach or suggest each and every element of Applicant's claim 11 as amended herein. Therefore, the rejection of claim 11 under 35 U.S.C. § 102 cannot be maintained and should be withdrawn.

Claims 13 and 14 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,780,283 to Meinecke et al. (hereinafter "Meinecke").

Meinecke shows a measuring device for measuring the test field of a longitudinally extending flexible test strip. The test strip has an insertion end to be inserted into the apparatus and a handling end. The test strip is securely held in a measurement position by a pin 28 penetrating recess 52 of the test strip. There is no clamping device clamping the test strip in the measurement position. At the handling end the test strip is held in a similar way by a pin 38 penetrating a recess 53 in the test strip.

Claim 13 as amended herein recites a test strip system including a flexible test strip with a test field and a measuring device for measuring the test field. The measuring device having a strip receiver including a spring arm extending outwardly from the support surface toward the inner end of the strip receiver that is elastically deflectable in a direction toward the support surface, and a counter-pressure surface overlying the spring arm and spaced apart therefrom. The spring arm defining a surface for carrying an end portion of a test strip inserted in the strip receiver, such that during insertion of the test strip into the strip receiver, the end portion of the test strip rides on the spring arm moving between the spring arm and the counter-pressure surface thereby bending away from the support surface and towards the counter-pressure surface. The spring arm further including a detent

engageable with the test strip for securing the position of the test strip relative to the strip receiver.

Meinecke does not teach or suggest a strip receiver having a spring arm extending outwardly from the support surface toward the inner end of the strip receiver that is elastically deflectable in a direction toward the support surface, and wherein the spring arm defines a surface for carrying a test strip inserted into the strip receiver such that during insertion of the test strip, the end portion rides on the spring arm between the spring arm and a counter-pressure surface bending away from the support surface.

The Examiner has identified a stop pin 28 shown in Meinecke stating that the stop pin is biased towards and penetrates a recess of the test strip to pin the test strip against a counter-pressure surface 32. However, as clearly shown in Figs. 1-4 of Meinecke, the stop pin 28 is not extending outwardly from the support surface such that during insertion of the test strip into the strip receiver, the stop pin urges an end portion of the test strip riding thereon to bend away from the support surface. In fact, as shown in Figs. 1-4, the test strip remains flush with the support surface at the stop pin 28. Thus, Meinecke does not disclose a spring arm as recited in amended claim 13.

Accordingly, for at least the reasons set forth above, Meinecke does not anticipate amended claim 13 under 35 U.S.C. § 102(b) and therefore the Examiner's rejection of claim 13 should be withdrawn.

Claim 14 depends from amended claim 13 and recites additional limitations thereto. Since, amended claim 13 is not anticipated by Meinecke for at least the above-identified reasons, dependent claim 14 is also not anticipated by Meinecke. Therefore, the rejection of claim 14 under 35 U.S.C. § 102(b) should be withdrawn and claim 14 passed to issue.

Claims 15-17 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Meinecke.

Claim 15 as amended herein recites a test strip system including a pivotal clamping lever including a two-armed lever having an actuator arm at one end thereof and a clamping arm at an opposing end, the actuator arm and clamping arm being angularly offset one to the other, the clamping lever positioned overlying the support surface and supported for pivotal movement about an axis disposed parallel to the support surface and located between the actuator arm and clamping arm. The clamping arm is biased toward the support surface and engageable with a surface of a test strip opposite the support surface for securing the position of the test strip relative to the support surface. The actuator arm being operable for movement towards the support surface for insertion and removal of a test strip into the test strip receiver between the clamping arm and the support surface.

Meinecke does not disclose a test strip system including a pivotal clamping lever including a two-armed lever having opposing actuator and clamping arms positioned overlying the support surface as set forth in amended claim 15.

In support of the rejection, the Examiner has identified a pivotal cam plate 26 and a clamping arm in the form of a stop pin 28 overlying a guide element 32 if the apparatus is viewed upside down. Clearly, the cam plate 26 and stop pin 28 of Meinecke do not provide a two-armed lever including opposing clamping and actuator arms which are angularly offset as recited in amended claim 15. Further, Meinecke does not provide an actuator arm operable for movement towards the support surface for insertion and removal of a test strip into the strip receiver as also recited in claim 15.

Accordingly, for at least the above-identified reasons, amended claim 15 is not anticipated under 35 U.S.C. § 102(b) by Meinecke and therefore, the rejection of claim 15 should be withdrawn.

Claims 16 and 17 depend directly from claim 15 and also recite additional limitations. Since claim 15 is not anticipated by Meinecke, for at least the above-identified reasons, Meinecke does not anticipate claims 16 and 17 which depend

from claim 15. Therefore, the rejection of claims 16 and 17 under 35 U.S.C. § 102(b) should also be withdrawn.

Claims 15, 19 and 20 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 4,934,817 to Gassenhuber (hereinafter referred to as "Gassenhuber").

Gassenhuber discloses a device for optically evaluating test strips including a housing carrying measuring optics and a test strip holder removably insertable into the housing. The test strip holder 18 includes a U-shaped pressing element 40 which is supported for pivotal movement about an axis 47 so that in a first position the pressing element is aligned with a ramp forming bottom 32 and, in a second position, corresponding to the pressed position of the test strip against the support plate 38, the pressing element 40 lies parallel to the support plate.

As set forth above, claim 15 as amended herein recites a test strip system including a pivotal clamping lever including a two-armed lever having an actuator arm at one end thereof and a clamping arm at an opposing end, the actuator arm and clamping arm being angularly offset one to the other, the clamping lever positioned overlying the support surface and supported for pivotal movement about an axis disposed parallel to the support surface and located between the actuator arm and clamping arm. The clamping arm is biased toward the support surface and engageable with a surface of a test strip opposite the support surface for securing the position of the test strip relative to the support surface. The actuator arm being operable for movement towards the support surface for insertion and removal of a test strip into the test strip receiver between the clamping arm and the support surface.

Gassenhuber does not disclose a test strip system including a clamping lever having a two-armed lever as recited in amended claim 15. Nothing in Gassenhuber teaches a two-armed clamping lever having a clamping arm and an actuator arm at opposing ends thereof which is pivotally mounted overlying the support surface as recited in claim 15. Anticipation requires the presence in a single prior art reference

disclosure of each and every element of the claim invention, arranged as in the claim. Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984). Accordingly, as set forth above with respect to the Meinecke reference, Gassenhuber does not teach all of the elements of claim 15 as arranged in the claim. Accordingly, amended claim 15 is not anticipated by Gassenhuber under 35 U.S.C. § 102(b).

Claims 19 and 20 depend from amended claim 15 and also include additional limitations. Since, amended claim 15 is not anticipated by Gassenhuber for at least the above-identified reasons, dependent claims 19 and 20 are also not anticipated by Gassenhuber. Therefore, the rejection of claims 19 and 20 under 35 U.S.C. § 102(b) should also be withdrawn.

Conclusion

In view of the foregoing, it is respectfully submitted that claims 11, 13-16 and 19-20 are allowable. All issues raised by the Examiner having been addressed herein, an early action to that effect is earnestly solicited.

Petition for Extension of Time to Respond

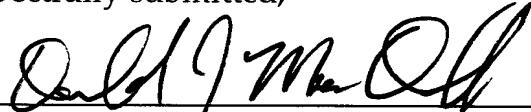
Pursuant to 37 CFR 1.136(a), Applicant hereby requests a one-month extension for filing a reply to the Office Action of August 7, 2006, thereby extending the period to respond through December 7, 2006. A check in the amount of \$120 is enclosed herewith to cover the fee for the one month extension under 37CFR 1.17(a)(1).

Serial No. 10/043,681
Office Action Dated: 08/07/06
Response to Office Action Dated 12/06/06

Applicants believe no other fee is due for this Response, however, should there be any deficiency in fees associated with the filing of this Response, please charge our Deposit Account No. 13-0235.

Respectfully submitted,

By



Donald J. MacDonald
Registration No. 42,823
Attorney for Applicant(s)

McCORMICK, PAULDING & HUBER LLP
CityPlace II, 185 Asylum Street
Hartford, CT 06103-4102
Tel: (860) 549-5290
Fax: (413) 733-4543